

MAR - 6 2008

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March 5, 2008

MEMO ENDORSED

Re: Philip R. Belpasso v. Port Authority of New York, et al.,
07 Civ 3627 (SHS)(DF)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant in the above-referenced action. I write to respectfully request that defendant City of New York be allowed to reserve its right to conduct plaintiff's deposition, if defendant City of New York's fully briefed motion to dismiss pursuant to Rule 12(b)(6) is denied in whole or in part.

In light of the fact, that defendant City of New York has moved to dismiss plaintiff's complaint as pertaining to the City defendant in accordance with Rule 12(b)(6), and that the motion is now fully briefed, the City does not plan on attending the deposition of plaintiff which is being conducted on March 11, 2008 by co-defendant Port Authority of New York and New Jersey. Defendant City would prefer to wait a ruling on their motion before expending the costs and time associated with conducting plaintiff's deposition. Given the fact that discovery was not stayed pending the resolution of the defendants City's motion, defendant City hereby respectfully requests that if its motion is denied in whole or in part, that the City be allowed to conduct plaintiff's deposition at such time.

In light of Judge Stein's order of 3/7/08 granting the City's request, this Court's order of 3/10/08 is hereby withdrawn.

SO ORDERED: DATE: 3/11/08

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DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE

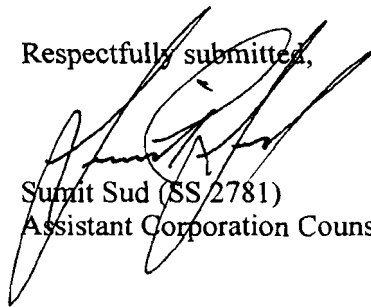
As plaintiff should not have to be deposed twice, the application made herein is denied.

SO ORDERED: DATE: 3/10/08

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DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE

Thank you for your consideration herein.

Respectfully submitted,


Summit Sud (SS/2781)
Assistant Corporation Counsel

TO: Mr. Philip R. Belpasso
Pro Se Plaintiff
40-09 Kuiken Terrace
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The Honorable Sidney H. Stein
United States District Judge
Southern District of New York
500 Pearl Street
New York, N.Y. 10007 (by Hand Delivery)

The Honorable Debra C. Freeman
United States Magistrate Judge
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